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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/768,082	02/02/2004	Tsutomu Tsukagoshi	Y2238.0056	6555
32172	7590	08/27/2007		
DICKSTEIN SHAPIRO LLP 1177 AVENUE OF THE AMERICAS (6TH AVENUE) NEW YORK, NY 10036-2714			EXAMINER BARON, HENRY	
			ART UNIT 2616	PAPER NUMBER
			MAIL DATE 08/27/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/768,082

Applicant(s)

TSUKAGOSHI ET AL.

Examiner

Henry Baron

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 9-14, 16-21 and 24 is/are rejected.
- 7) ☐ Claim(s) 6, 7, 14, 15, 22 and 23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) ✓
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08) ✓  
Paper No(s)/Mail Date 02/02/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

### ***Detailed Action***

#### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 9 and 17 are rejected under 35 U.S.C. 102(b) as being unpatentable over La Porta et al (U.S. Patent 5,434,852) hereafter La Porta.

3. Considering Claims 1, 9, and 17, La Porta teaches of a method, network device and packet communication system performing packet communication in which incoming and outgoing calls are controlled at call control means and user data at user data processing means (Figure 5 call servers and connection/channel servers), comprising resource management means for managing resources of the user data processing means (Figure 5 connection and channel control; element 505 and 512) where the resource management means being provided in the user data processing means. (Fig 5, elements 503 and 513)

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 2 – 5, 8, 10 – 13, 16, 18 – 21, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over La Porta et al (U.S. Patent 5,434,852) hereafter La Porta in view of Xu et al (U.S. Patent 6,909,609).
6. Considering Claims 2, 10, and 18, though La Porta teaches of a method and network device with resource management means that manages QoS computation for connections (7: [0023-0025]), however La Porta does not explicitly teach of managing an available resource ratio indicating a ratio of remaining bands and the number of remaining sessions relative to band resources and the number-of-sessions resources of the user data processing means.
7. Xu teaches of a call admission control in a telecommunication network where a bandwidth ratio (7: [0010-0020]) that indicates a ratio of remaining bands and the number of remaining sessions relative to band resources and the number-of-sessions resources of the user data processing means. (read B, total effective bandwidth required for an incoming call and B' calls (i.e. sessions) relative to the provisioned bandwidth).
8. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to modify the data processing means of La Porta with the bandwidth ratio teachings of Xu.
9. This modification allows the resource management means to record available bandwidth for each data processing means when it allocates or de-allocates capacity and thus establishes the data processing capacity of each user data processing means.
10. In regards to Claims 3, 11, and 19, La Porta teaches that call control means comprises storage means for storing the available resource ratio of the user data processing means that is notified from the resource management means (6:[0054-0057] read user and service database).
11. Claims 4, 12, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over La Porta et al (U.S. Patent 5,434,852) hereafter La Porta in view of Xu et al (U.S. Patent 6,909,609).

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12. La Porta teaches the limitations of Claims 2, 10, and 18, but is silent regarding to teaching the user data processing means attaching the available resource ratio to a response signal from the call control means and then sends the resulting response signal to the call control means.

13. Xu teaches where the user data processing means attaches the available resource ratio to a response signal for the call control means and then sends the resulting response signal to the call control means. (4:[0057-(5:[0006] and Figure 2).

14. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to modify the data processing means of La Porta with the signaling teachings of Xu.

15. This modification would be advantageous since the call control means would then be able to determine whether or not to set up a call with the user data processing means.

16. Claims 5, 13, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over La Porta et al (U.S. Patent 5,434,852) hereafter La Porta in view of Xu et al (U.S. Patent 6,909,609).

17. La Porta teaches the limitations of Claims 4, 12, and 20, but is silent regarding to the teaching of setting up a session call setup request sent from the call control means in order to establish a session based on the available resource ratio received from the data processing means.

18. However, Xu teaches of setting up a session call setup request sent from the call control means in order to establish a session based on the available resource ratio received from the data processing means. (5: [0009-0015]).

19. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to modify the data processing means of La Porta with the session setup teachings of Xu.

20. This modification would be advantageous since the call control means would then be able to determine based on the available resource ratio whether or not to set up a call with the user data processing means.

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21. Claims 8, 16, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over La Porta et al (U.S. Patent 5,434,852) hereafter La Porta in view of Xu et al (U.S. Patent 6,909,609).

22. La Porta teaches the limitations of Claims 2, 10, and 18, but is silent regarding to the teaching of call control means selecting the user data processing means having remaining resources in accordance with the available resource ratio and sends the call setup request for establishment of the session to the selected user data processing means.

23. Xu teaches of call control means selecting the user data processing means having remaining resources in accordance with the available resource ratio and sends the call setup request for establishment of the session to the selected user data processing means. (3:[0046-0067]).

24. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to modify the data processing means of La Porta with the remaining resource teachings of Xu.

25. This modification would be advantageous since the call control means would then be able to determine based on the remaining available resource whether or not to set up a call with the user data processing means.

#### ***Allowable Subject Matter***

26. Claims 6-7, 14-15, and 22-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

27. Neither Xu, La Porta nor the other references teach of tearing down a session call setup request sent from the call control means or of using bandwidth ratio, which can be sent to gateway in response to a health, check.

#### ***Conclusion***

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28. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Henry Baron whose telephone number is (571) 270-1748. The examiner can normally be reached on 7:30 AM to 5:00 PM E.S.T. Monday to Friday.

29. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on (571) 272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

30. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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